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President of the European Commission

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Ms Mariya Gabriel
Commissioner of Innovation, Research, Culture, Education and Youth

Barcelona, October 30, 2020

We are writing to you on behalf of “Universitaris per la Convivència,” a group of Catalan university professors that seeks to preserve the political neutrality of universities in Catalonia in the face of the continuous pressures from political and social secessionist forces. (<http://universitarisperlaconvivencia.org/>)

We are aware of the letter that 24 MEPs have addressed you requesting that you prevail upon Spanish authorities so that they do not interfere in the resolutions made or declarations issued by Catalan universities. The signatories of that letter suggest that Spanish universities are not subject to any principle of neutrality, and that their governing bodies are protected by the rights to freedom of expression and university autonomy to sanction political declarations. Furthermore, the signatories invoke the principle of representation, which they claim supports university governing bodies.

We ask you to consider our position before forming your opinion on this matter.

First, the reference to the Spanish authorities is irrelevant here, and therefore it cannot be invoked to support the claim of the nationalist MEPs. The cause generating their claim is a judicial ruling against the University of Barcelona for violating the fundamental rights to freedom of expression, ideological freedom and education after the University Senate sanctioned an institutional statement in support of secessionist politicians convicted by the Spanish Supreme Court. Four members of our group (Universitaris per la Convivència) filed a court petition seeking to require universities to maintain political neutrality. The declaration issued by the University of Barcelona replicated the separatist narrative thus contributing to the further degradation of our democratic model of coexistence. It went as far as calling for the release of nationalist leaders convicted and imprisoned

by final judgment of the Supreme Court. (<http://universitarisperlaconvivencia.org/wp-content/uploads/2020/10/Manifiesto-Claustros.pdf>)

Second, apart from our outright disagreement with the content of the declaration, Spanish law clearly states that “the Public Administration serves the general interests with objectivity” (Article 103.1 of the Spanish Constitution), and the Spanish case law has long established that this precept must be interpreted as including the principle of neutrality. In this sense, not only the Courts but also the Spanish Ombudsman has supported our position by pointing out that “public universities and similar institutions must respect the principle of ideological neutrality that is required of all of them in a plural and democratic society.” (<http://universitarisperlaconvivencia.org/wp-content/uploads/2020/10/Respuesta-del-Defensor-sin-datos.pdf>)

Third, it is important to recall that freedom of expression, as our Constitutional Court has repeatedly pointed out, concerns individuals, not institutions. When an institution of higher education purports to establish a partisan viewpoint as representative of the whole institution it contradicts its most fundamental functions. Moreover, such attempt is even more disturbing if it involves partisanship with respect to issues that generate great social controversy, such as supporting or rejecting Catalonia’s secession from Spain.

Our viewpoint in this regard is precisely opposed to the views advanced by the MPE signatories: We strongly believe that the university community must be a meeting point for conversation and debate among the different sensitivities existing in our society. That, of course, is impossible if the universities shatter the required principle of neutrality.

At the same time, we understand that the right of autonomy of Spanish universities, like any other right, has a precise meaning and clear-cut limits, particularly when the right is granted on account of being a public institution. The meaning and limits of such autonomy are clearly established in Spanish Law (Ley Orgánica de Universidades, art. 2), according to which autonomy for public institutions of higher education is provided only for matters related to its organization and operation.

Finally, the nationalist MEPs invoke the principle of representation regarding university governing bodies as the basis for their position. This principle, however, does not include political representation. Its members have not been elected for their ideology, but to contribute to the university governance. Therefore, the University Senate lacks the legitimacy to speak on behalf of university community regarding non-academic matters. In this particular case, the infringement of its mission is even more serious, as it takes sides in the very controversial issue of Catalonia’s alleged right to self-determination, and it sends the message that one can oppose the rule of law.

For all the above reasons, we sought judicial protection. Before going to court, however, we conveyed to the University Senate assembly, and to the rectors of Catalan universities through an

open letter that their duty was to protect academic freedom as a means to foster the peaceful coexistence among the university community and provide the conditions to form students' critical mind and spirit.

We thank you for your time, and we remain at your disposal for any clarification that you may require.

Cordially,

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